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MINNESOTA BULLETIN NO. 420-5-2

SUBJECT: SSC – PROCEDURES FOR TRIBAL CULTURAL RESOURCES CONSULTATION
FOR CONSERVATION PROJECTS ON TRIBAL LANDS

Purpose. To outline consultation procedures to comply with Federal law.

Expiration Date. September 30, 2006.

Background. **Tribal Consultation** for Natural Resources Conservation Service (NRCS) undertakings with the potential to affect historic properties **is required under federal law**. This is stated in the National Historic Preservation Act (NHPA), and discussed in the NRCS Cultural Resources Handbook, and the NRCS Nationwide Programmatic Agreement with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers.

Explanation. Federal Agencies, in carrying out their NHPA Section 106 responsibilities, must consult with any Indian tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking. Formal tribal consultation is relevant to: non-tribal property owners who own land within the exterior boundaries of a reservation; tribes with Tribal Historic Preservation Officers (THPO), and those without THPOs but that are federally recognized; and tribes that may not reside within state but have ancestral, aboriginal, or ceded lands within the state. The following information applies to tribal consultation for the Minnesota NRCS:

- In order to assist Field Offices with meeting NRCS requirements for Tribal Consultation in Minnesota, all proposed undertakings within reservation boundaries should be submitted to the Minnesota State Cultural Resources Specialist (CRS) prior to practice implementation to ensure that NRCS is in compliance with federal law. This can be done using the MN-CPA-048 form (eFOTG, Section II).
- The list of undertakings and exempt practices in the Minnesota State Level Agreement (SLA) is currently applicable on reservations that DO NOT have a THPO (Prairie Island, Upper Sioux, Lower Sioux, Shakopee Mdewakanton Sioux, Fond du Lac, Bois Forte, Grand Portage, Red Lake). The SLA undertaking list will be used until agreements are in place.
- Consultation with Leech Lake, Mille Lacs, and White Earth must go through their THPO via the Minnesota CRS. The SLA is not applicable for these tribes unless they agree to use it.
- Minnesota NRCS currently has a Memorandum of Understanding (MOU) with the White Earth Band that establishes consultation protocol.

Establishing individual agreements or consultation protocols with each tribe is paramount to continuing the successful relationships between the tribes and the NRCS in Minnesota. Many of these relationships have already been established. The goal is to build on these relationships, with the help of the Field and Area Offices, and to establish formal protocols and agreements which document our recognition of

sovereign rights over cultural resources on tribal lands and special knowledge of the Tribe about their cultural and spiritual places.

Tribal Consultation is a Federal Agency responsibility. Therefore, the State Conservationist is the person responsible for the government to government relationship with Tribes.

The Cultural Resources Specialist is the lead person for developing cultural resource protocols and agreements.

For additional information on this topic consult:

<http://www.achp.gov/regs-tribes.html>

http://policy.nrcs.usda.gov/scripts/lpsiis.dll/H/H_190_601_Content.htm

http://policy.nrcs.usda.gov/scripts/lpsiis.dll/NI/NI_420_300.htm

If you have any questions or comments please direct them to:

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